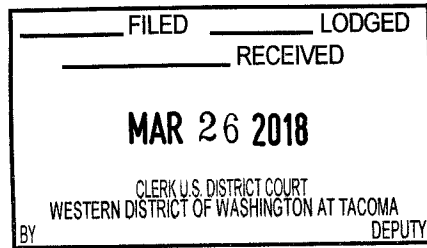


MAGISTRATE JUDGE



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL T. MCCARTHY,

Defendant.

No. CR17-5404

FINDINGS AND ORDER ACCEPTING
DEFENDANT FOR DEFERRED
PROSECUTION, APPROVING
TREATMENT PLAN, AND
DIRECTING DEFENDANT TO TAKE
TREATMENT AS PRESCRIBED

THIS MATTER, coming on for hearing this 26th day of March, 2018, upon the defendant's Petition for Deferred Prosecution; the defendant appearing in person and by his attorney, Miriam Schwartz, Assistant Federal Public Defender; the United States of America being represented by Barbara Sievers, Assistant United States Attorney; the Court, having examined and incorporated into the record Petitioner's Petition and Statement in support of deferred prosecution, the evaluation and treatment report prepared by Lakeside Milam, and the files and records herein, being fully advised in the premises, does now make and enter the following:

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ORDER ACCEPTING DEFERRED
PROSECUTION
(United States v. McCarthy; CR17-5404) - 1

FEDERAL PUBLIC DEFENDER
1331 Broadway, Suite 400
Tacoma, WA 98402
(253) 593-6710

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I. FINDINGS OF FACT

A. On or about the 27th day of July, 2017, Petitioner was charged with the offense/offenses charged in the Information. This offense occurred as a direct result of alcoholism/chemical dependency problems;

B. Petitioner suffers from an alcohol/drug problem and is in need of treatment;

C. The probability of similar misconduct in the future is great if the problem is not treated;

D. Petitioner is amenable to treatment;

E. An effective rehabilitative treatment plan is available to Petitioner through Lakeside Milam, an approved treatment facility as designated by the laws of the State of Washington, and Petitioner agrees to be liable for all costs of this treatment program;

F. That Petitioner agrees to comply with the terms and conditions of the program offered by the treatment facility as set forth in the diagnostic evaluation from Lakeside Milam, attached to Statement of Petitioner filed herewith, and that Petitioner agrees to be liable for all costs of this treatment program;

G. That Petitioner has knowingly and voluntarily stipulated to the admissibility and sufficiency of the facts as contained in the written police report attached to Statement of Petitioner filed herewith.

H. That Petitioner has acknowledged the admissibility of the stipulated facts in any criminal hearing or trial on the underlying offense or offenses held subsequent to revocation of this Order Granting Deferred Prosecution and that these reports will be used to support a finding of guilt;

1 I. That Petitioner has acknowledged and waived the right to testify, the right
2 to a speedy trial, the right to call witness to testify, the right to present evidence in his
3 or her defense, and the right to a jury trial;

4 From the foregoing FINDINGS OF FACT, the Court draws the following:

5 **II. CONCLUSIONS OF LAW**

6 A. That the above-entitled Court has jurisdiction over the subject matter and
7 Petitioner McCarthy, in this case;

8 B. That Petitioner's Petition for Deferred Prosecution meets the requirements
9 of RCW 10.05 et seq.;

10 C. That the diagnostic evaluation and commitment to treatment meets the
11 requirements of RCW 10.05.150;

12 D. That Petitioner is eligible for deferred prosecution.

13 **III. ORDER**

14 Having made and entered the foregoing FINDINGS OF FACT and
15 CONCLUSIONS OF LAW, it is hereby

16 ORDERED that the defendant is accepted for deferred prosecution. The
17 prosecution of the above-entitled matter is hereby deferred for five (5) years pursuant to
18 RCW 10.05 et seq., upon the following terms and conditions:

19 A. Petitioner shall be on probation for the deferral period and follow the
20 rules and regulations of probation;

21 B. Petitioner shall enroll in and successfully complete the two-year treatment
22 program recommended by Lakeside Milam according to the terms and conditions of
23 that plan as outlined in the diagnostic evaluation, a true copy of which is attached to the
24 Petition and incorporated herein by reference. Petitioner shall not change treatment
25 agencies without prior Probation approval;

1 C. The treatment facility, Lakeside Milam, shall file with the United States
2 Probation Office status reports of Petitioner's compliance with treatment, monthly
3 during the first year of the deferred prosecution period and every three (3) months
4 during the second year. The Court may increase the frequency of these reports at its
5 discretion;

6 D. Petitioner shall notify U.S. Probation within 72 hours of any residence
7 change.

8 E. Petitioner shall abstain during the deferred prosecution period from any
9 and all consumption of alcoholic beverages and/or non-prescribed mind-altering drugs;

10 F. Petitioner shall not operate a motor vehicle on the public highways
11 without a valid operator's license and proof of liability insurance sufficient to comply
12 with the state laws on financial responsibility;

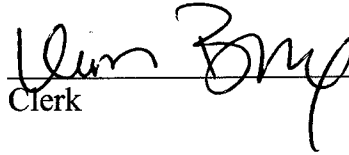
13 G. Petitioner shall be law abiding and shall not commit any alcohol/drug
14 related offenses or other criminal offenses during the period of deferral,

15 H. Petitioner shall notify U.S. Probation within 72 hours of being arrested,
16 questioned, or cited by Law Enforcement;

17 I. In the event that Petitioner fails or neglects to carry out and fulfill any
18 term or condition of his treatment plan or violates any provision of this Order or any
19 rule or regulation of his probation officer, upon receiving notice, the Court shall hold a
20 hearing to determine why Petitioner should not be removed from deferred prosecution
21 and prosecuted for the offense/offenses charged;

22 J. In the event the Court finds cause to revoke this deferred prosecution, the
23 stipulated police reports shall be admitted into evidence, and Petitioner shall have her
24 guilt or innocence determined by the Court;

1 I certify that a copy of this signed Order was mailed to the subject treatment
2 facility, on March 26, 2018. The United States Probation Office was also
3 furnished a copy of this Order.

4 
Clerk